

760 CMR: DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

760 CMR 63.00: PUBLIC HOUSING INNOVATION DEMONSTRATION PROGRAM

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63.01: Scope, Purpose, and Applicability

The Public Housing Innovation Demonstration Program (“PHID Program”) was created by St. 2008, c. 119, § 2, budget line item 7004-0034, which authorized the Department of Housing and Community Development to use up to \$50,000,000 in general obligation bond funds over a five-year term to support programs that demonstrate cost effective revitalization methods for State-Aided Family and Elderly-Disabled Public Housing and to seek to reduce the need for future state modernization funding. The PHID Program will provide grants for Eligible Projects sponsored and developed by Local Housing Authorities.

In the event of any actual or potential inconsistency between or among the provisions of 760 CMR 63.00, the applicable PHID Program Legislation, the PHID Program Guidelines, or the documents evidencing a PHID Grant, those provisions shall be interpreted, to the extent reasonably possible, so as to reconcile any such inconsistencies. If the provisions cannot reasonably be reconciled, the provisions of the applicable PHID Legislation, 760 CMR 63.00, the PHID Program Guidelines and the grant documents, in the foregoing order of priority, shall control.

63.02: Definitions

Advisory Committee . A seven-member committee to consist of the director of the Department or his or her designee, one member selected by the Citizens’ Housing and Planning Association, one member selected by the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, one member selected by the Massachusetts Union of Public Housing Tenants and three additional members chosen by the Department, to provide advice and recommendations to the Department regarding 760 CMR 63.00 and the PHID Program Guidelines implementing 760 CMR 63.00.

Application. An application for a PHID Grant, in the format specified by the PHID Program Guidelines, including a description of a proposed project, all financing sources, and all other matters required by 760 CMR 63.00 and the applicable PHID Program Guidelines.

Area Median Income. Income, adjusted for family size, and for the pertinent region, as determined, from time to time, by the United States Department of Housing and Urban Development.

Asset-Based Management. As part of a comprehensive strategic plan for a portfolio, an approach to property management that focuses on maximizing the long term value of property, operational efficiency and cost-effectiveness, and consumer satisfaction, and, generally, employs a site-based budgeting, needs analysis, funding, decision making, oversight and performance assessment, as well as site-based information and financial systems.

CEDAC. The Community Economic Development Assistance Corporation established in M.G.L. c. 40H, which is authorized by the PHID Legislation to provide Technical Assistance for Eligible Projects and to provide evaluations of the Eligible Projects awarded PHID Grants.

Cost-Effective Revitalization Methods. Elements of an Eligible Project designed to offer savings in the management, marketing, construction or rehabilitation of State-Aided Family and/or Elderly-Disabled Housing, including, without limitation, incorporating Energy Conservation or Efficiency, Asset-Based Management, and Design Innovations.

Department. The Department of Housing and Community Development (DHCD).

Design Innovations. Proposals related to site planning, building and/or unit design, building and/or unit systems, construction techniques, or construction materials of an Eligible Project that offer new means of (i) extending the useful life of State-Aided Family and/or Elderly-Disabled Public Housing; (ii) improving operational efficiency and cost effectiveness of State-Aided Family and/or Elderly-Disabled Public Housing; (iii) incorporating Energy Conservation or Efficiency; and/or (iv) affording opportunities for replicability.

Eligible Project. A proposal submitted by an Local Housing Authority for the acquisition, construction, renovation, rehabilitation, marketing or management of State-Aided Family and/or Elderly-Disabled Public Housing. An Eligible Project supported by a PHID Grant is sometimes referred to herein as a “Project.”

Energy Conservation or Efficiency. Energy audits, site planning, building and/or unit design, building and/or unit systems, construction techniques, or construction materials of an Eligible Project that offer new means of construction or housing modifications to achieve energy efficiency and conservation, including, without limitation, achieving reductions in use of or decreasing reliance on nonrenewable and/or natural resources.

Financially Feasible Project. An Eligible Project that is likely to secure binding financial commitments from any other funding sources which, together with the PHID Grant funds, total the budgeted amount necessary to develop and operate the Project.

Local Housing Authority. A local housing authority created pursuant to M.G.L. c.121B, § 3, prior statute or special act that has State-Aided Housing Developments.

Low or Moderate Income Person or Family. An individual or family whose income is less than 80% of the Area Median Income.

MHP. The Massachusetts Housing Partnership Fund Board established in St. 1985, c. 405, § 35, as amended by St. 1990, c. 102, §§ 34-37, which is authorized by the PHID Legislation to provide Technical Assistance for Eligible Projects and to provide evaluations of the Eligible Projects awarded PHID Grants.

PHID Grant. A grant made by the Department to a Local Housing Authority for an Eligible Project under the PHID Program, including Technical Assistance.

PHID Legislation. The legislation enacted as St. 2008, c. 119, § 2 (budget line item 7004-0034), as amended from time to time.

PHID Program Guidelines. Guidelines issued by DHCD, after consultation from the Advisory Committee, setting out, clarifying and further explaining 760 CMR 63.00 program policy and procedure, including provisions relating to Tenant Participation, as such guidelines may be amended, supplemented or replaced from time to time. The PHID Program Guidelines shall apply to all PHID Grant programs subject to 760 CMR 63.01(2).

Regional Collaboration. A common or shared Eligible Project developed or managed by Local Housing Authorities in two or more municipalities for State-Aided Family and/or Elderly-Disabled Public Housing in those municipalities and for which an Application is submitted to the Department.

State-Aided Family and/or Elderly-Disabled Public Housing. A State-Aided Housing Development pursuant to St. 1948, c. 200, St. 1954, c. 667 or St. 1966, c. 705 for families, as defined in St. 1948, c. 200, St. 1966, c. 705, and M.G.L. c. 121B; and/or for elderly or disabled persons as defined in St. 1954, c. 667 and M.G.L. c. 121B.

State-Aided Housing Development. Housing developed pursuant to St. 1948, c. 200, St. 1954, c. 667, or St. 1966, c. 705.

Technical Assistance. Assistance in the form of consultation, review and advice concerning the design or implementation of an Eligible Project.

Tenant Participation. Notification to and consultation with tenants of State-Aided Family and/or Elderly-Disabled Public Housing affected by proposed Eligible Projects, including review and advice from tenants in accordance with the PHID Program Guidelines.

### 63.03: Eligible Projects

(1) Required Elements: The Department shall approve a PHID Grant only for an Eligible Project proposed by one or more Local Housing Authorities that:

- (a) is for a marketing, management, construction or rehabilitation project or use for State-Aided Family and/or Elderly-Disabled Public Housing which is a Financially Feasible Project;
- (b) demonstrates innovative and replicable solutions to the management, marketing or capital needs of State-Aided Family and/or Elderly-Disabled Public Housing; and
- (c) contributes to the continued viability of the housing as a resource for public housing eligible residents.

(2) Preferential Features: Preference shall be given to Eligible Projects that demonstrate one or more of the following features:

- (a) Regional Collaboration among Local Housing Authorities;
- (b) Proposal of new housing units for Low or Moderate Income Persons or Families on municipally-owned land, underutilized public housing sites or other land owned by the Local Housing Authority;
- (c) Effort to reduce the need for future state modernization funding;
- (d) Incorporation of Cost-Effective Revitalization Methods; or
- (e) Preservation of housing for existing residents to the maximum extent feasible.

#### 63.04: PHID Grant Applications and Awards

- (1) Requests for Proposals: The Department shall conduct competitive funding rounds and shall solicit proposals in the competitive funding rounds for PHID Grants for Eligible Projects in accordance with the PHID Program Guidelines.
- (2) Applications: The Application procedures for PHID Grants are specified in the PHID Program Guidelines. Local Housing Authorities shall comply with the Application procedure for PHID Grants in accordance with the requirements of a request for proposal issued by the Department pursuant to the PHID Program Guidelines. The Application may include a proposal for Technical Assistance by CEDAC or MHP with regard to the design or implementation of the Eligible Project, including pre-development costs. The Application shall demonstrate compliance with Tenant Participation requirements pursuant to the PHID Program Guidelines and shall comply with 760 CMR 63.06 and 63.07. The Application shall also contain information sufficient to enable the Department to make the findings required by 760 CMR 63.04(5).
- (3) Department Review: The Department shall approve PHID Grants in accordance with the PHID Program Guidelines regarding application content, criteria for competitive review and consideration of preferential features. The Department shall not consider an Application that does not substantially comply with the requirements of 760 CMR 63.04 or the PHID Program Guidelines.
- (4) PHID Grant Approval and Terms: The Department may grant in whole or in part or deny an Application, or may grant the Application on such terms and conditions as it determines would further the objectives of the PHID Legislation, 760 CMR 63.00 and the PHID Program Guidelines.
- (5) Department Findings: In approving Eligible Projects for PHID Grants, the Department shall make the findings regarding the individual criteria set out in 760 CMR 63.03(1) and (2) and shall also find that:
  - (a) the primary purpose of the Project will be for the public benefit and for a public purpose and any benefit to private parties or individuals shall be indirect and incidental and not the purpose of the Project;
  - (b) the Project, when complete, will conform to all applicable laws and regulations, unless expressly waived or granted an exemption by the Department pursuant to 760 CMR 63.06 or 63.07 or by another applicable authority;
  - (c) that there is a reasonable expectation that the Project will be successful;
  - (d) that provision is made for reporting and evaluation of the success of the Project; and
  - (e) that the Application and the Project comply with Tenant Participation requirements pursuant to the PHID Program Guidelines.
- (6) In awarding a PHID Grant, the Department shall consider whether to include funds for Technical Assistance and funding for evaluation of the grant by CEDAC or MHP.

#### 63.05: Grant Administration

- (1) Reporting by Grant Recipients: Recipients of PHID Grants shall report on the status of the design, implementation and results of the Eligible Project in accordance with the requirements established in the PHID Program Guidelines, which shall include, at a minimum, the following information about the Project:
  - (a) the address, the nature of the work and scope of work; and

(b) its costs, including, but not limited to the total dollar amount allocated for the Project, the total estimated cost of the Project, the amount expended for the planning and design of the Project up to the time the report is filed, the amount expended on construction of the Project up to the time the report is filed, the total amount currently expended on the Project, the status of the work on the Project (including, but not limited to the original estimated completion date of the Project, the current anticipated completion date of the Project, and if completed, a schedule of life cycle standards for the Project), and if the project has been de-authorized, the reason for and date of de-authorization.

(2) The Department may enter into an agreement with CEDAC or MHP for the conduct of an evaluation of the projects awarded PHID Grants.

#### 63.06: Statutory Exemptions

(1) A Local Housing Authority may apply to the Department for an exemption of a PHID Grant from the requirements of either or both M.G.L. c. 7 and M.G.L. c. 121B. A Local Housing Authority requesting an exemption shall include in its Application, with respect to each requested exemption, an explanation of the reason for the exemption, including a demonstration that:

- (a) the requested exemption is necessary to accomplish the effective revitalization of public housing; and
- (b) the requested exemption will not adversely affect public housing residents or applicants of any income who are otherwise eligible for public housing as specified by the PHID Program Guidelines.

(2) For good cause, a Local Housing Authority may apply to the Department pursuant to the PHID Program Guidelines for an exemption pursuant to 760 CMR 63.06 after the submission of its Application or after receipt of PHID Grant approval. The request for exemption shall include the demonstration required in 760 CMR 63.06(1).

(3) The Department in its discretion may approve an exemption from the requirements of either or both M.G.L. c. 7 and M.G.L. c. 121B if it determines that the Local Housing Authority has demonstrated that the requested exemption is necessary to accomplish the effective revitalization of public housing and will not adversely affect public housing residents or applicants of any income who are otherwise eligible and will be consistent with the purpose of the PHID Legislation, 760 CMR 63.00 and the PHID Program Guidelines and all applicable provisions of law.

#### 63.07: Report to Legislature

The Department shall report to the House and Senate Committees on Ways and Means and the Joint Committee on Housing on the progress of the demonstration program.

- (1) within 90 days after the effective date of 760 CMR 63.00 and
- (2) annually on the first Monday in July.

#### 63.08: Waiver Provisions

(1) A Local Housing Authority may submit to the Department a request for approval of a waiver of any provision of 760 CMR 63.00 or another regulation promulgated by the Department pursuant to the PHID Program Guidelines. A Local Housing Authority requesting such a waiver shall include in its Application, with respect to each requested waiver, an explanation of the reason for the waiver,

including a demonstration that the additional regulatory relief is required to further the objectives of the PHID Program and is otherwise necessary and appropriate.

(2) For good cause, a Local Housing Authority may apply to the Department pursuant to the PHID Program Guidelines for a waiver pursuant to 760 CMR 63.07 after the submission of its application or after receipt of PHID Grant approval. The request for waiver shall include the demonstration required in 760 CMR 63.07(1).

(3) The Department in its discretion may approve a waiver of any provision of 760 CMR 63.00 or another regulation promulgated by the Department if it determines that the waiver will further the objectives of the PHID Program and will be consistent with the purpose of the PHID Legislation, 760 CMR 63.00 and the PHID Program Guidelines and all applicable provisions of law.

## REGULATORY AUTHORITY

760 CMR 63.00: St. 2008, c. 119, § 2, budget line item 7004-0034.